

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
CINCINNATI DIVISION

**HUNTER DOSTER, *et al.*,**

*Plaintiffs,*

v.

**FRANK KENDALL, *et al.*,**

*Defendants.*

No. 1:22-cv-00084  
Hon. Matthew W. McFarland

**DEFENDANTS' UNOPPOSED MOTION TO EXTEND**

Defendants respectfully request that the Court extend Defendants' deadline to respond to Plaintiffs' Motion for Attorneys' Fees and Costs/Interim Attorney Fees and Costs, ECF Nos. 129 ("Pls.' Mot. for Fees"), by the sooner of either three weeks after Plaintiffs' deadline to notice an appeal of this Court's entry of final judgment dismissing this case, ECF No. 128, or three weeks after Plaintiffs file such notice of appeal. Plaintiffs do not oppose this requested relief.

On March 18, 2024, this Court dismissed this case as moot and entered judgment. ECF Nos. 127, 128. Plaintiffs' deadline to notice an appeal of that judgment is May 17, 2024. *See* Fed. R. Civ. P. 4(a)(1)(B). On May 1, 2024, Plaintiffs moved for attorneys' fees and costs. *See* Pls.' Mot. for Fees, ECF No. 129; *see also* S.D. Ohio Civ. R. 54.2(a) (providing 45-day deadline for moving for attorneys' fees following entry of judgment). In that motion, Plaintiffs state that they are still "evaluating an appeal of the dismissal of this case," and that "if any appeal is successful, then Plaintiffs would seek additional attorney fees and costs for the appeal and subsequent litigation." Pls.' Mot. for Fees, ECF No. 129 at PageID 6000 n.1. Defendants' current deadline to respond to Plaintiffs' motion for attorneys' fees is May 22, 2024, *see* S.D. Ohio Civ. R. 7.2(a)(2)—five days after Plaintiffs' deadline to notice an appeal, *see* Fed. R. Civ. P. 4(a)(1)(B).

Defendants request that their deadline to respond to Plaintiffs' motion for attorneys' fees be extended until three weeks after Plaintiffs have chosen whether to appeal this Court's judgment. *See* Fed. R. Civ. P. 54 advisory committee's note to 1993 amendment ("If an appeal on the merits of the case is taken, the court may rule on the claim for fees, may defer its ruling on the motion, or may deny the motion without prejudice, directing under subdivision (d)(2)(B) a new period for filing after the appeal has been resolved."); *Kryder v. Estate of Rogers*, 321 F. Supp. 3d 803, 809–10 (M.D. Tenn. 2018) (collecting cases for proposition that "many courts have found it prudent for reasons of judicial economy to defer ruling on a request for attorney's fees until after an appeal has been completed"). Should Plaintiffs choose to appeal this Court's judgment, Plaintiffs have indicated that they will seek additional fees and costs related to such appeal. Any request for fees and costs at this time may thus be premature. The requested extension will preserve both judicial and party resources. Upon conferral with counsel for Plaintiffs, Plaintiffs have indicated that they do not oppose this requested relief.

Accordingly, Defendants request that this Court extend Defendants' deadline to respond to Plaintiffs' motion for attorneys' fees until the sooner of either three weeks after Plaintiffs' deadline to notice an appeal, or three weeks after Plaintiffs file such notice of appeal.

Dated: May 7, 2024

Respectfully submitted,

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/s/ Cassandra M. Snyder

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 7, 2024, I electronically filed the foregoing paper with the Clerk of Court using this Court's CM/ECF system, which will notify all counsel of record of such filing.

/s/ Cassandra M. Snyder  
Cassandra M. Snyder